IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

KATHLEEN L. ODEGARD,	)	
	)	
and	)	
	)	
KEITH J. ODEGARD,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No.
	)	
HYONG-BUM KIM,	)	
	)	
and	)	
	)	
KITEBRIDGE, INC.,	)	
	)	
a Delaware corporation,	)	
	)	
Defendants.	)	

COMPLAINT

Plaintiffs, Kathleen L. Odegard and Keith J. Odegard (collectively, "Plaintiffs"), file this action against Hyong-Bum Kim ("Kim") and Kitebridge, Inc. ("Kitebridge"), and allege as follows:

THE PARTIES

1. Plaintiffs Kathleen L. Odegard and Keith J. Odegard are residents of the State of Missouri.

2. Kim is resident of the State of California.

3. Kitebridge is a company organized and existing under the laws of the State of Delaware with its principal place of business at 823 Ames Avenue, Palo Alto, CA 94303.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction in this matter pursuant to 28 U.S.C. § 1332 because the amount in controversy in this matter exceeds $75,000 and this matter is between citizens of different states.

5. The Court has personal jurisdiction over Kim and Kitebridge in this matter because they made and breached a contract in the State of Missouri.

6. Venue is appropriate in this judicial district pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this district.

FACTS

The Loan Documents

7. On February 1, 2015, Kitebridge entered a contract with Plaintiffs whereby Plaintiffs would make a loan to Kitebridge in the principal amount of $500,000.00 for the purpose of providing operating capital to Kitebridge, and whereby Kitebridge would execute and deliver a promissory note ("the Note") to Plaintiffs in their favor ("the Loan Agreement").

8. A true and accurate copy of the Loan Agreement, within which the Note is contained, is attached hereto as **Exhibit A**.

9. Under the terms of the Loan Agreement, Kitebridge was obligated to make a payment consisting of the entire principal balance of the Note and all accrued interest in cash on October 1, 2015. Exhibit A, pg. 1.

10. Kim executed both the Note and Loan Agreement on behalf of Kitebridge. Exhibit A, pgs. 10, 14.

11. On February 1, 2015, Kim also entered a contract with Plaintiffs whereby Kim pledged to Plaintiffs stock in Kitebridge, having represented himself to be the sole shareholder of Kitebridge ("the Stock Pledge Agreement").

12. A true and accurate copy of the Stock Pledge Agreement is attached hereto as **Exhibit B**.

13. Under the terms of the Stock Pledge Agreement, Kim recites that he is the sole shareholder of Kitebridge and is directly benefiting from the extension of credit to him by Plaintiffs. Exhibit B, pg. 1.

14. Kim pledges three hundred (300) shares of stock in Kitebridge to Plaintiffs under the terms of the Stock Pledge Agreement, and he further represents and warranties that he is the legal and beneficial owner of these three hundred shares, and that they constitute twenty percent (20%) of outstanding shares of the capital stock of Kitebridge.

15. Also on February 1, 2015, Kim entered a contract with Plaintiffs whereby he personally guaranteed the performance of Kitebridge's obligations under the Loan Agreement ("the Guaranty").

16. A true and accurate copy of the Guaranty is attached hereto as **Exhibit C**.

17. Kim represented in the Guaranty that "due to the close business and financial relationships between Borrower and Guarantor and in consideration of the Lender making the Loans to Borrower pursuant to the Loan Agreement, Guarantor is executing and delivering this Guaranty to the Lender in order to secure the prompt and complete payment, observance and performance of all of the obligations under the Loan Agreement." Exhibit C, pg. 1.

18. The Guaranty further explains that Kim "unconditionally and irrevocably guarantees to [Plaintiffs] the full and prompt payment and performance when due, whether by

lapse of time, by acceleration, or maturity, or otherwise, of all of the Obligations pursuant to the Loan Agreement, the Note and th[e] . . . Pledge and Security Agreement." Exhibit C, pg. 1.

19. Paragraph 9 of the Guaranty states as follows in pertinent part:

> Consent to Forum. AS PART OF THE CONSIDERATION FOR NEW VALUE THIS DAY RECEIVED, GUARANTOR HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE COURT LOCATED WITHIN ST. LOUIS COUNTY, MISSOURI OR FEDERAL COURT IN THE EASTERN DISTRICT OF MISSOURI, AND WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND CONSENTS THAT ALL SUCH SERVICE OF PROCESS BE MADE BY CERTIFIED OR REGISTERED MAIL DIRECTED TO GUARANTOR AT THE ADDRESS DESCRIBED IN SECTION 8(b) AND SERVICE SO MADE SHALL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT THEREOF. GUARANTOR WAIVES ANY OBJECTION TO JURISDICTION AND VENUE OF ANY ACTION INSTITUTED AGAINST IT AS PROVIDED IN THIS GUARANTY AND AGREES NOT TO ASSERT ANY DEFENSE BASED ON LACK OF JURISDICTION OR VENUE. . . .

Exhibit C, pg. 6.

20. Paragraph 8(b) of the Guaranty emphasizes that service shall be made in the manner described above, by certified or registered mail, to the address set forth in the Loan Agreement: 823 Ames Avenue, Palo Alto, California 94303. Exhibit A, pg. 1; Exhibit C, pg. 5.

21. Paragraph 23 of the Stock Pledge Agreement contains a substantially similar provision setting forth that Kim and Kitebridge consent that "service of process be made by certified or registered mail directed to Pledgpr at the address stated in the Loan Agreement and service so made shall be deemed to be completed upon actual receipt thereof." Exhibit B, pg. 9.

Kim and Kitebridge's Breach of Contract

22. Kim signed the Note, the Loan Agreement, the Stock Pledge Agreement, and the Guaranty, and sent signed versions of each to Plaintiffs via email from his address hkim@kitebridge.com on Monday, January 26, 2015.

23. Pursuant to their obligation under the Loan Agreement, Plaintiffs completed transfer of $500,000.00 by wire to Kitebridge on February 5, 2015 by wire through the Business Bank of St. Louis.

24. Kim verified receipt of the funds on Thursday, February 5 via email from his address hkim@kitebridge.com.

25. Kim represented to Plaintiffs that he would repay the principal loan amount of $500,000.00 by June 1, 2015.

26. Following additional representations by Kim that he needed additional time to repay the principal and interest amounts owed, he represented that he would make the payment required by December 31, 2015.

27. For instance, Kim represented by email on Tuesday, December 22, 2015 that he was in contact with another investor, which would enable him to pay Plaintiffs by yearend.

28. Contained within this email was another promissory note that Kim had signed purportedly agreeing to repay the principal loan amount in full, along with a $75,000 donation to Lutheran Church of Western Gardens, and a $25,000 conation to Lutheran High School Association.

29. Despite additional promises to make payment in January of 2016, Kim emailed Plaintiffs on Thursday, February 4, 2016 to inform them that Kitebridge would no longer operate as a functioning business entity moving forward.

30. Plaintiffs made demand for payment of the obligations undertaken by Kim and Kitebridge in August of 2016.

31. To date, neither Kim nor Kitebridge has made any payment to Plaintiffs to satisfy any portion of his obligation to them under the Note, the Loan Agreement, the Stock Pledge Agreement, or the Guaranty.

COUNT I:
BREACH OF LOAN AGREEMENT
DEFENDANT KITEBRIDGE, INC.

32. Plaintiffs allege as if fully set forth herein the allegations of paragraphs 1 – 31 of the complaint.

33. The Loan Agreement constitutes a valid contract under Missouri law, supported by consideration.

34. Plaintiffs complied with their obligations under the Loan Agreement by issuing a wire payment in the amount of $500,000.00 to Kitebridge.

35. Kitebridge has failed to comply with the terms of the Loan Agreement in any respect, and its failure to repay the principal of the loan, and to meet the other obligations set forth in the agreement, constitute material breach of the Loan Agreement.

36. Plaintiffs have been damaged as a direct result of Kitebridge's material breach of the Loan Agreement.

WHEREFORE, Plaintiffs respectfully pray this Court to issue an Order and Judgment finding Defendant Kitebridge in material breach of the Loan Agreement, issuing Judgment against Defendant Kitebridge and in favor of Plaintiffs in the full amount owed under the Loan Agreement, and for such other and further relief as this Court deems proper.

COUNT II:
BREACH OF PERSONAL GUARANTY
DEFENDANT KIM

37. Plaintiffs allege as if fully set forth herein the allegations of paragraphs 1 – 36 of the complaint.

38. The Guaranty constitutes a valid contract under Missouri law, supported by consideration.

39. Plaintiffs complied with their obligations under both the Loan Agreement and the Guaranty by issuing a wire payment in the amount of $500,000.00 to Kitebridge, which Defendant Kim expressly acknowledged inured to his economic benefit in the Guaranty.

40. Kim has failed to comply with the terms of the Guaranty in any respect, and his failure to repay the principal of the loan or ensure its payment by Kitebridge, and to meet the other obligations set forth in the agreement, constitute material breach of the Guaranty.

41. Plaintiffs have been damaged as a direct result of Kim's material breach of the Guaranty.

WHEREFORE, Plaintiffs respectfully pray this Court to issue an Order and Judgment finding Defendant Kitebridge in material breach of the Loan Agreement, issuing Judgment against Defendant Kitebridge and in favor of Plaintiffs in the full amount owed under the Loan Agreement, and for such other and further relief as this Court deems proper.

Respectfully submitted,

HUSCH BLACKWELL, LLP

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